

DATE 5-8-92IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**FILED**

MAY 7 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

JULIA K. ALLAN,

Plaintiff,

vs.

No. 91-C-220-E

MAY'S DRUG STORES, INC.,

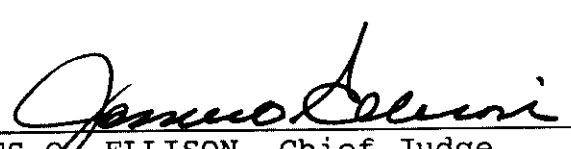
Defendant.

ORDER

The Court has for consideration the Defendant's Motion for Partial Summary Judgment. The Court has concluded that the motion should be granted. In Patterson v. Hudson Farms, Inc., Case No. 88-C-273-E (N.D.Okla. Mar. 1, 1989), this Court held that under Burk no tort action can be sustained where there is a pre-existing remedy for violation of the public policy at issue. See, Burk v. K-Mart, 770 P.2d 24 (Okla. 1989). In Barkan v. Hilti, Inc., Case No. 89-C-318-E (N.D.Okla. May 4, 1992) this Court held that the Civil rights Act of 1991 should not be applied retroactively. The Court now applies those rulings to the case at bar.

IT IS THEREFORE ORDERED that Defendant's Motion for Partial Summary Judgment is granted.

ORDERED this 7<sup>th</sup> day of May, 1992.

  
JAMES O. ELLISON, Chief Judge  
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

DATE 5-8-92

04302875.00\6641.008

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

MAY 7 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEERE AND COMPANY, NIPAK, INC.,  
and KAISER ALUMINUM & CHEMICAL  
CORPORATION,

Defendants.

CIVIL ACTION NO. 82-C-268-E ✓

ADMINISTRATIVE CLOSING ORDER

Upon Motion by Defendants, it is hereby ordered, adjudged and decreed on this 6th day of May, 1992, that the above-captioned cause be administratively closed.

  
United States District Judge

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ENTERED ON DOCKET

DATE 5-8-92 *pm*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARCUS R. MILLER,

Plaintiff,

v.

TULSA COUNTY JAIL, STANLEY  
GLANZ, SHERIFF, et al,

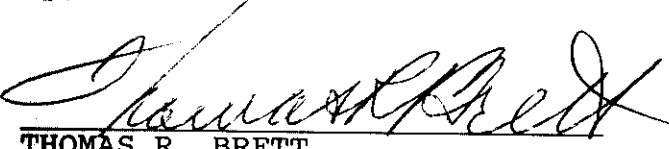
Defendants.

Case No. 90-C-526-B

**JUDGMENT**

In accord with the Order filed May 6, 1992, sustaining Defendants' Motion For Summary Judgment, the Court hereby enters Judgment in favor of Defendants Sheriff Stanley Glanz, Captain Dan Cherry, Deputy Sheriff Bob Bates, Deputy Sheriff Lance Ramsey and Johnny F. Dirck and against the Plaintiff Marcus R. Miller.

DATED this 17<sup>th</sup> day of May, 1992.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 5-8-92

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

MAY 7 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

ROBERT A. LESLIE,

Plaintiff,

vs.

No. 92-C-102-E

WILLIAM C. LESLIE, et al.,

Defendants.


ORDER AND JUDGMENT

Before the Court are Defendants' various Motions for Dismissal. The Court has reviewed the record in this case in light of the relevant law and finds that dismissal is appropriate on several grounds: first, because it appears that complete diversity is lacking and that no federal question is raised by this record, the Court must dismiss, simply because it lacks subject matter jurisdiction. It also appears that an address of the state issues which form the gravamen of this suit is precluded by the doctrine of res judicata and by the applicable statute of limitations.

However, the Court finds that imposition of Rule 11 sanctions would be improper in the instant case because the pro se Plaintiff's conduct does not appear to fall within the ambit of Rule 11, Fed.R.Civ.P.

IT IS THEREFORE ORDERED that this matter is dismissed; Defendants' Rule 11 Motion is denied; parties will bear their own costs herein.

So ORDERED this 7th day of May, 1992.

  
JAMES O. ELLISON, Chief Judge  
UNITED STATES DISTRICT COURT

DATE 5-8-92 *mu*IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

MARCUS R. MILLER,

Plaintiff,

v.

TULSA COUNTY JAIL, et al,

Defendants.

90-C-526-B

ORDER

This order pertains to plaintiff's Amended Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (Docket #7)<sup>1</sup>, defendant Johnny F. Dirck's Motion to Dismiss (Docket #38), which has been converted to a Motion for Summary Judgment in order to consider matters outside the Complaint, the Motion for Summary Judgment of defendants Stanley Glanz and Dan Cherry (Docket #46), plaintiff's Objection to Motion for Summary Judgment (Docket #50), the Reply to Plaintiff's Objection to Defendants' Motion for Summary Judgment (Docket #53), plaintiff's Motion for Discovery (Docket #54), plaintiff's Motion for Leave to Amend Prayer for Relief (Docket #55), the Objection of Defendants Glanz and Cherry to the Motion for Leave to Amend Prayer for Relief (Docket #57), the Objection of Defendant Glanz to Plaintiff's Motion for discovery (Docket #58), the Request of Plaintiff for Admissions (Docket #63), and the Motion of Defendant Stanley Glanz for Immediate Protective Order (Docket #64). Plaintiff's Complaint was dismissed in its entirety on January 29, 1991 by order of this court (Docket #28). Plaintiff appealed, and on

<sup>1</sup> "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

November 18, 1991 the Tenth Circuit issued its Judgment (Docket #31), affirming the lower court's dismissal of all of plaintiff's federal claims except the one relating to excessive force, reversing the decision to dismiss the excessive force claim, and remanding for further proceedings.

This court now considers plaintiff's claim that he was subjected to the use of excessive force by three police officers after being placed in a holding cell. This alleged incident followed a scuffle between plaintiff and defendant Ramsey when plaintiff was asked to leave the law library of the Tulsa City-County Jail on December 13, 1989. Plaintiff refused to return to his cell in handcuffs, there was an altercation, and plaintiff was put in a holding cell. A determination must be made of the collateral estoppel effect of plaintiff's conviction of battery on a police officer in state court on February 9, 1990 on plaintiff's claim of use of excessive force in the holding cell.

Under the doctrine of collateral estoppel, once a court decides an issue of fact or law necessary to its judgment, that decision precludes relitigation of the same issue on a different cause of action between the same parties.

In Emich Motors Corp. v. General Motors Corp., 340 U.S. 558, 569 (1951), the Court said it was well established that a prior criminal conviction may work an estoppel in favor of the government in a subsequent civil proceeding. "In the case of a criminal conviction based on a jury verdict of guilty, issues which were essential to the verdict must be regarded as having been determined by the judgment." Id.

The Court in Montana v. United States, 440 U.S. 147, 153 (1979), discussed the reasoning behind the doctrine: "To preclude parties from contesting matters that they have

had a full and fair opportunity to litigate protects their adversaries from the expense and vexation attending multiple lawsuits, conserves judicial resources, and fosters reliance on judicial action by minimizing the possibility of inconsistent decisions." The Court went on to find that the doctrine may also apply to nonparties involved in the litigation:

These interests are similarly implicated when nonparties assume control over litigation in which they have a direct financial or proprietary interest and then seek to redetermine issues previously resolved. . . . [T]he persons for whose benefit and at whose direction a cause of action is litigated cannot be said to be 'strangers to the cause. . . . [O]ne who prosecutes or defends a suit in the name of another to establish and protect his own rights, or who assists in the prosecution or defense of an action in aid of some interest of his own . . . is as much bound . . . as he would be if he had been a party to the record.' . . . Preclusion of such nonparties falls under the rubric of collateral estoppel. . . . (Citations omitted).

Id. at 154.

In Allen v. McCurry, 449 U.S. 90 (1980), the Supreme Court found that a state criminal court's determination that a search was legal collaterally estopped the criminal defendant from asserting the illegality of the search in a subsequent § 1983 lawsuit, as long as he had a "full and fair opportunity" to litigate that issue at the state criminal trial. Id. at 95. The Court did not decide, however, how to determine the applicability of collateral estoppel to a particular case. Id. at 93 n.2.

The Supreme Court clarified Allen in Haring v. Prosise, 462 U.S. 306 (1983), where a criminal defendant pled guilty in state court and then brought a § 1983 action based on the claim that an illegal search had led to the state criminal proceedings. The Court found that plaintiff's guilty plea did not bar his § 1983 action. The Court held that 28 U.S.C. § 1738 renders state preclusion doctrine presumptively applicable to a § 1983 suit brought by a former state criminal defendant, subject to a federal due process qualification that

state law can only preclude issues that the § 1983 plaintiff had a full and fair opportunity to litigate in the state proceeding, unless the state court was "unable or unwilling to protect federal rights." (Citations omitted). Id. at 314. The Court noted that it had earlier found that preclusive effect also was not appropriate if a § 1983 claimant had not freely and without reservation submitted his federal claims to the state court for decision and had them decided there. See Montana v. United States, 440 U.S. at 163.

The Tenth Circuit in Slayton v. Willingham, 726 F.2d 631, 633-34 (10th Cir. 1984), relied on Allen and Haring to find that the issue of an illegal search raised by a § 1983 plaintiff was not precluded because it was neither necessary to, nor actually decided by, the state court's judgment in plaintiff's earlier criminal case. The court found that the earlier judgment was based on a plea admitting all of the elements of the crime, but relying on no illegally seized evidence that might have been used at trial. The § 1983 suit for the illegal search was found to be based on the search, not on acts committed by the § 1983 plaintiff on which his state criminal prosecution was based. While he was precluded from challenging the conviction by challenging the search, the court noted that this had nothing to do with his later assertion in a § 1983 suit that the search violated his constitutional rights.

The court has reviewed the transcript of the state court trial on February 5-9, 1990 in which plaintiff was found guilty of assault and battery on Police Officer Ramsey. The court finds that the jury heard evidence of both an altercation before plaintiff was placed in a holding cell and one when the other officers arrived. The evidence was not presented as two separate occurrences, but rather as a continuous series of events. Evidently



Ramsey's injuries resulted from the first confrontation and the other officers were not injured during the second, although Officer Jerry Bagby's glasses were knocked off.

Plaintiff testified about the confrontation in the holding cell with Officers Ramsey, Bates, and Bagby at pages 143-144 of the transcript. On pages 144-149 he testified concerning the medical treatment he received for the alleged injuries he sustained in the confrontation in the cell. Officer Bates testified that plaintiff was the aggressor in the cell at pages 55-56 and Officer Bagby corroborated this testimony at pages 69-70. Plaintiff testified that Officer Bagby was lying when he said Miller hit him. (TR 164). Plaintiff stated that Officers Bates and Bagby lied when they stated he suffered no injuries. (TR 165). Importantly, medical records from plaintiff's physical examinations following the incident were introduced and showed no injuries. (TR 176-182). Testimony was presented that no incident report was filed regarding the confrontation. (TR 184-186).

In his closing argument, counsel for the prosecution stated "Bates and Bagby came up there. When they entered the cell with Ramsey, you heard again what happened, a second fight. The first thing that this man did, Marcus Miller, was to physically confront them, prepare for physical combat, cussed them.... And when they moved in on him, he struck at or struck Deputy Bagby causing Deputy Bagby's glasses to fly away." (TR 203).

Plaintiff's attorney in his summation also discussed the second fight as part of the total event:

Then Marcus Miller went on to tell you what happened after that, the incident with Sergeant Bates and Deputy Bagby and Ramsey all in the cell with him and what happened there. Now, ladies and gentlemen, I don't doubt that perhaps Deputy Bagby's glasses fell from his head during that scuffle. I think there's serious questions about how that happened. But in

any event, Marcus Miller was taken back to the City jail and handcuffed end to end, hands to the bunk, feet to the other end.

(TR 226).

Jury Instruction No. 1 required the jury to establish by evidence beyond a reasonable doubt all the allegations raised by the state. Instruction No. 6 stated: "You are instructed that evidence has been introduced of self-defense as a defense to the charge that the defendant has committed the crime of Assault and Battery upon a Police Officer." Instruction No. 7 informed the jury that self-defense is not available to a person who was the aggressor, and Instruction No. 8 defined aggressor. Instruction No. 9 related the amount of force that can justifiably be used in self-defense. Instruction No. 10 stated: "You are instructed it is the burden of the State to prove beyond a reasonable doubt that the defendant was not acting in self-defense. If you feel that the State has failed to sustain that burden, then the defendant must be found not guilty."

The transcript of the trial in state court shows that plaintiff raised the issue of two incidents involving excessive use of force and his claim of self-defense in that proceeding, and his defense was not found by the jury to have merit. His claim that he was an innocent victim was not believed. The issue of who assaulted whom in the two confrontations and who sustained injuries has been fully litigated and determined by a jury at a higher standard than would be required of a jury in this civil case. The doctrine of collateral estoppel precludes the relitigation of the issue of the use of excessive force by the three police officers after plaintiff was placed in the holding cell. Defendants' Motions for Summary Judgment as to plaintiff's excessive force claims are granted.

Defendants' Motions for Summary Judgment as to plaintiff's state law claims for battery and intentional infliction of emotional distress are also granted, because the granting of summary judgment as to the related federal claim will eliminate federal jurisdiction over the pendant state law claims. United Mine Workers of Am. v. Gibbs, 383 U.S. 715, 725 (1966); Plott v. Griffiths, 938 F.2d 164, 166-67 (10th Cir. 1991). Summary judgment is also granted as to plaintiff's claims against Sheriff Stanley Glanz, Captain Dan Cherry, Don C. Holyfield, and Johnny F. Dirck, based on the granting of summary judgment as to the underlying claims against the defendant police officers.

It is therefore ordered that defendant Johnny F. Dirck's Motion to Dismiss, which has been converted to a Motion for Summary Judgment, and the Motion for Summary Judgment of defendants Stanley Glanz and Dan Cherry are granted. Plaintiff's Motion for Discovery, Motion for Leave to Amend Prayer for Relief, and Request for Admissions, and defendant Glanz's Motion for Immediate Protective Order are moot.

Dated this 6<sup>th</sup> day of May, 1992.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FEDERAL DEPOSIT INSURANCE  
CORPORATION, as Receiver for  
First Bank & Trust Co.,  
Booker, Texas,

Plaintiff,

vs.

KENNETH ADAMS, an individual,


Defendant.

Case No. 91-C-490-E

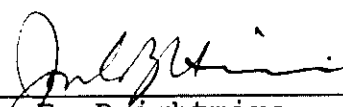
STIPULATION OF DISMISSAL

Pursuant to Fed. Rule Civ. Pro. 41(a)(1)(ii), the parties in this cause hereby stipulate, through the signatures of their respective counsel below, that Plaintiff Federal Deposit Insurance Corporation, as Receiver for First Bank and Trust Co., Booker, Texas, dismisses, WITHOUT PREJUDICE TO REILING, its claims in this cause, and this action, and that the parties will pay their own costs.

Respectfully submitted,

  
R. Casey Cooper, OBA #1897  
Bradley K. Beasley, OBA #628  
Leslie Zieren, OBA #9999  
Of BOESCHE MCDERMOTT & ESKRIDGE  
800 Oneok Plaza  
100 West 5th Street  
Tulsa, Oklahoma 74103  
(918) 583-1777

ATTORNEYS FOR PLAINTIFF


  
Jon E. Brightmire  
DOERNER, STUART, SAUNDERS,  
DANIEL & ANDERSON  
320 South Boston, Suite 500  
Tulsa, OK 74103  
(918) 582-1211

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 7<sup>th</sup> day of May, 1992, a true and correct copy of the foregoing was mailed to the following by depositing the same in the United States mail in Tulsa, Oklahoma, with first class postage fully prepaid thereon:

Sam P. Daniel  
Jon E. Brightmire  
Doerner, Stuart, Saunders,  
Daniel & Anderson  
320 South Boston, Suite 500  
Tulsa, OK 74103

  
\_\_\_\_\_

DATE 5-7-92IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

SHIRLEY LUCAS,

Plaintiff,

v.

DIECO MANUFACTURING, INC.,

Defendant.

**FILED**

91-C-541-B

JUN - 8 1992  
Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT**ORDER**

This order pertains to Plaintiff's Motion to Alter Judgment (Docket #14)<sup>1</sup>. Judgment was entered in favor of the defendant and against plaintiff on April 13, 1992. Plaintiff now contends that the judgment should be reconsidered pursuant to Rule 59 of the Federal Rules of Civil Procedure, because the court misunderstood plaintiff's position with respect to her claim for insurance benefits.

Plaintiff notes that the Dieco Employee Health Benefits Plan ("the Plan") stated that dependent benefits would "automatically terminate on the earlier of: 1) the date the Plan Document terminates, or 2) the first of the month following the date on which the last contribution payment is made on account of your Dependent Benefits...; 3) the day you no longer qualify as a Dependent." (See Ex. 1 to plaintiff's Brief in Support of Plaintiff's Motion to Alter Judgment (Docket #15)). Plaintiff claims that she became insured as a dependent under the plan on July 1, 1990 and health insurance premiums were withheld from her husband's paychecks from June 28, 1990 until his last paycheck dated October 4, 1990. She contends that Dieco made its last contribution payment for plaintiff's

<sup>1</sup> "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

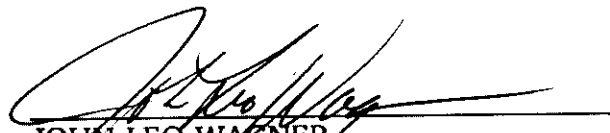
coverage on October 15, 1990 and fails to mention that that part was refunded in November, 1990. (See Ex. 6 to **plaintiff's** Brief in Support of Plaintiff's Motion Alter Judgment). She does state that her husband was not refunded the amount taken from his October 4, 1990 payment for health insurance coverage.

On the basis of these contentions, **plaintiff** argues that, under the words of the Plan, her coverage ended on November 1, 1990, "the first of the month following the date on which the last contribution payment [was] made", not September 30, 1990, the date her husband's coverage ended.

Plaintiff's Motion to Alter Judgment (Docket #14) is denied. The evidence in the record shows that no medical claims have ever been paid for Dieco employees who were temporarily laid off. The written Plan document states that benefits are only paid to employees and their dependents, and Mr. Lucas ended his employment on September 30, 1990. Plaintiff's husband elected to proceed under the Consolidated Omnibus Budget Reconciliation Act (COBRA) amendments to the Employee Retirement Income Security Act to extend his benefits, but did not pay the required COBRA premium. After September, 1990, Dieco did not deliberately make contribution payments on account of plaintiff or her husband, and the payment improperly made in October, 1990 was refunded in November, 1990. The amount of premium withheld from plaintiff's husband's paycheck which was dated October 4, 1990 was for coverage in September, 1990, as the wages he received in that check were for work done in September, 1990.

Plaintiff's Motion to Alter Judgment (Docket #14) is denied and the Judgment of this court dated April 13, 1992 stands as entered.

Dated this 5<sup>th</sup> day of May, 1992.

  
JOHN LEO WAGNER  
UNITED STATES MAGISTRATE JUDGE



DATE 5-7-92

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

**FILED**

MAY - 1992

Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT

**PHILLIPS PETROLEUM COMPANY,**

*Plaintiff,*

v.

**MANUEL LUJAN, JR., Secretary  
of the Interior, et al.,**

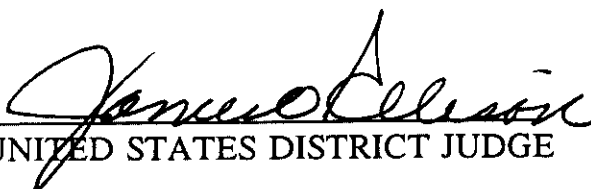
*Defendants.*

) Civil Action No. 88-C-1487-E

**ORDER FOLLOWING REMAND**

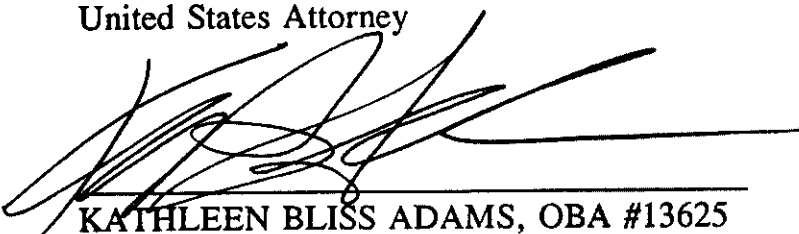
Pursuant to the instructions of the United States Court of Appeals for the  
Tenth Circuit (951 F.2d 257 (1991)), it is hereby

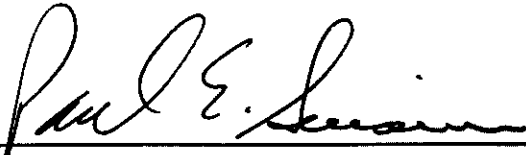
ORDERED that judgment for the defendants is granted.

  
UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

TONY M. GRAHAM  
United States Attorney

  
KATHLEEN BLISS ADAMS, OBA #13625  
Assistant United States Attorney  
3900 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463



---

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(918) 587-0000

Thomas L. Cabbage, II  
Jennifer G. Fry  
Phillips Petroleum Company  
1260 Adams Building  
Bartlesville, OK 74004

DATE 5-7-92

# FILE

RECEIVED  
U.S. DISTRICT COURT

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This action grew out of a real estate transaction involving prime shoreline property on Grand Lake of the Cherokees located in Delaware County, Oklahoma, within the northern district of Oklahoma. The evidence fairly reflected that Robinson, a Texas native, contacted Ellis, a licensed real estate agent or broker, late in 1998, relative to this property; that Robinson retained Ellis to inquire into the purchase of the property by contacting the owners, Mr. and Mrs. DeAtley Hampton (Hampton); that Ellis took a listing from Hampton giving Ellis the right to sell the property to Robinson at the fixed price of \$185,000; that Robinson, in December, 1988, made a written offer of \$120,000 which was rejected

by Hampton.

The evidence further indicated that thereafter Robinson, with Ellis' knowledge and apparent blessing, began to negotiate directly with Hampton; that Robinson and Ellis had conferred over potential development plans for the property; that Hampton grew weary of Robinson's promises to continue negotiation and ultimately refused to deal with Robinson; that in March, 1989, Ellis took an option to buy the property in her name for the sum of \$155,500. The evidence was in conflict whether Robinson was pleased with the Ellis option. Ellis testified Robinson was happy for her; Robinson testified he was severely displeased with the Ellis option.

In McHargue v. Stokes Div. of Pennwalt Corp., 912 F.2d 394 (10th Cir.1990) the Court stated:

In ruling on a motion for a new trial, the trial judge has broad discretion. Scholz Homes Inc. v. Wallace, 590 F.2d 860, 864 (10th Cir.1979). He has the obligation or duty to ensure that justice is done, and, when justice so requires, he has the authority to set aside the jury's verdict. Seven Provinces Inc. Co. Ltd. v. Commerce & Industry Ins. Co., 65 F.R.D. 674, 688 (W.D.Mo.1975). He may do so when he believes the verdict to be against the weight of the evidence or when prejudicial error has entered the record. Holmes v. Wack, 464 F.2d 86, 88 (10th.Cir.1972).

The Court is of the view the instant verdict, as to the issue of liability, was not against the weight of the evidence nor does it believe the record reflects prejudicial error on that issue. The parties presented their evidence in forthright testimony which conflicted in several critical areas, particularly whether Robinson had waived his right to performance of the original agency arrangement. The jury believed Robinson.

As to Defendant's Motion For Remittitur the Court concludes the amount of the verdict was not within the range available to the jury under the evidence. Although Robinson's testimony was sufficient for the jury to conclude that with his financial ability and real estate experience he could have profitably developed the property, his evidence as to development costs and potential future profits was somewhat speculative and ill-defined. The lack of evidence regarding sales costs, development costs and the time value of invested money cause the Court to conclude that the \$100,000 verdict was excessive and shocks the conscience of the Court. Henryetta Const. Co. v. Harris, 408 P.2d 522 (Okla.1965).

Remittitur is peculiarly within the discretion of the trial court. Brown v. Skaggs-Albertson's Properties, Inc., 563 F.2d 983 (10th Cir.1977). Under Oklahoma law the failure to mathematically apportion in precise amounts breach of contract damages does not preclude recovery if sufficient evidence is in the record to support the award granted. Transpower Constructors, a Div. of Harrison Intern. Corp. v. Grand River Dam Authority, 905 F.2d 1413 (10th Cir.1990). The rule in Oklahoma that the prohibition against the recovery of damages because of uncertainty applies to the fact of damages, not to the amount. Transpower, *supra*, citing Hardesty v. Andro Corp.-Webster Div., 555 P2 1030 (Okla.1976). However, the Court concludes the record does not support the total award of \$100,000. The Court further concludes Plaintiff's award should be reduced by a remittitur of \$40,000, which would reduce Plaintiff's award to the total sum of \$60,000.

The Court declines to act upon Defendant's Motion For New Trial at this time. The Court concludes Defendant's Motion For Remittitur should be and the same is herewith GRANTED to the extent stated herein. Plaintiff's award is herewith reduced to the sum of \$60,000. If, within twenty days from the date hereof, Plaintiff fails to file Notice that he accedes to the court-reduced award of \$60,000 the Court will grant Defendant's Motion For New Trial. If Plaintiff files Notice that he accedes to such reduced award within the time prescribed a Judgment reflecting same will be accordingly entered.

IT IS SO ORDERED this 6<sup>th</sup> day of May, 1992.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

DATE 5-7-92 *mu*

MCW/vlw

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

KELLY MCNEW,

Plaintiff,

vs.

CONTINENTAL CASUALTY COMPANY,

Defendant.

No. 92-C-69-B ✓

**FILED**  
MAY 8 1992  
Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMAORDER OF DISMISSAL

Upon the stipulation of the parties to the above styled and numbered cause of action, and for good cause shown, this action is dismissed with prejudice.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DAVID ALAN MCCRADY,

Plaintiff,

v.

HARP CORRECTIONAL CENTER, et al,

Defendants.

91-C-146-B ✓

FILED  
MAY 06 1992  
Richard M. L... Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed April 15, 1992 in which the Magistrate Judge recommended that the case be dismissed without prejudice.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that the case is dismissed without prejudice.

Dated this 6<sup>th</sup> day of May, 1992.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA MAY 04 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

THRIFTY RENT-A-CAR SYSTEM, INC., )  
an Oklahoma corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
TEXAS F&J ENTERPRISES, INC. )  
and JOHN R. GORDON )  
an individual )  
 )  
Defendants. )

Case No. 92-C-180-B

ENTERED ON DOCKET

DATE 5-6-92

**JUDGMENT**

This matter comes before the Court upon Motion and Affidavit of the Plaintiff, Thrifty Rent-A-Car System, Inc. ("Thrifty"), duly made for entry of Judgment by default. Having considered the evidence and the arguments of counsel, the Court makes the following findings:

1. On February 28, 1992, Thrifty filed a Complaint against Defendants Texas F&J Enterprises, Inc. ("Texas F&J") and John R. Gordon ("Gordon").

2. The Summons and Complaint were served upon Texas F&J and Gordon on March 27, 1992. The return of service for Texas F&J was filed on April 6, 1992, and the return of service for Gordon was filed on March 30, 1992.

3. Defendants Texas F&J and Gordon have neither formally entered an appearance in this matter nor filed an answer to Plaintiff's Complaint. That Defendants are thus in default, and Plaintiff is entitled to a Default Judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

4. Defendant Gordon is not an infant or incompetent person, and is not in the military service of the United States.

5. The Defendants are indebted to Plaintiff in the sum of \$169,256.02 for failure to pay certain obligations pursuant to written contracts.

6. The Master Lease Agreement which comprises the majority of Thrifty's claims against these Defendants provides that Thrifty shall recover its attorney's fees incurred herein.

7. The Plaintiff has incurred \$313.71 in costs and \$1,257.50 in attorney fees, all of which the Court finds were reasonably and necessarily incurred in the prosecution of this case, and for all of which Plaintiff is entitled to judgment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Judgment is entered in favor of Plaintiff, Thrifty Rent-A-Car System, Inc., and against the Defendants, Texas F&J Enterprises, Inc. and John R. Gordon, jointly and severally, in the amount of \$169,256.02, together with the costs of this action in the amount of \$313.71, and a reasonable attorney's fee in the amount of \$1,257.50, making a total Judgment of \$170,827.23, for all of which execution shall issue. Interest shall accrue on this Judgment at the rate of 4.40 % per year.

Judgment rendered this 4<sup>th</sup> day of May, 1992.

S/ THOMAS R. BRETT

United States District Judge

DATE 5-6-92

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**  
MAY 06 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

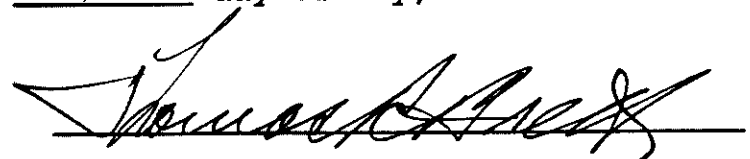
CAR RENTAL LICENSEE ASSOCIATION,  
INC., a Nevada corporation,  
  
Plaintiff,  
  
v.  
  
BUDGET RENT A CAR CORPORATION,  
a Delaware corporation,  
  
Defendant.

No. 90-C-1060-B

ORDER

In accordance with the Order entered on March 6, 1992, the Court overrules the "cross-motion" for summary judgment of the plaintiff, Car Rental Licensee Association, Inc. ("CRLA") in part and sustains it in part.

IT IS SO ORDERED, this 4<sup>th</sup> day of May, 1992.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOAN CAROLYN LEESON f/k/a JOAN  
CAROLYN JONES f/k/a JOAN C.  
JONES f/k/a JOANY JONES;  
LEONARD LEESON; HARVEY D. JONES,  
JR. a/k/a HARVEY DANNY JONES,  
JR. a/k/a HARVEY DANIEL JONES;  
EXCHANGE BANK OF SKIATOOK; STATE  
OF OKLAHOMA ex rel. OKLAHOMA TAX  
COMMISSION; COUNTY TREASURER,  
Tulsa County, Oklahoma; and  
BOARD OF COUNTY COMMISSIONERS,  
Tulsa County, Oklahoma,

Defendants.

**FILED**

MAY 10 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

DATE 5-6-92

CIVIL ACTION NO. 91-C-776-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4th day  
of May, 1992. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Wyn Dee Baker, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by J. Dennis Semler, Assistant District  
Attorney, Tulsa County, Oklahoma; the Defendant, State of  
Oklahoma ex rel. Oklahoma Tax Commission, appears by its attorney  
Lisa Haws; and the Defendants, Joan Carolyn Leeson f/k/a Joan  
Carolyn Jones f/k/a Joan C. Jones f/k/a Joany Jones, Leonard  
Leeson, Harvey D. Jones, Jr. a/k/a Harvey Danny Jones, Jr. a/k/a  
Harvey Daniel Jones, and Exchange Bank of Skiatook appear not,  
but make default.

The Court being fully advised and having examined the court file finds that the Defendant, Joan Carolyn Leeson f/k/a Joan Carolyn Jones f/k/a Joan C. Jones f/k/a Joany Jones, acknowledged receipt of Summons and Complaint on October 15, 1991; that the Defendant, Leonard Leeson, was served with Summons and Complaint on December 9, 1991; that the Defendant, Harvey D. Jones, Jr. a/k/a Harvey Danny Jones, Jr. a/k/a Harvey Daniel Jones, acknowledged receipt of Summons and Complaint on October 8, 1991; that the Defendant, Exchange Bank of Skiatook, acknowledged receipt of Summons and Complaint on October 7, 1991; that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, acknowledged receipt of Summons and Complaint on October 4, 1991; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 4, 1991; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 7, 1991.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on October 28, 1991; that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, filed its Answer on October 24, 1991; and that the Defendants, Joan Carolyn Leeson f/k/a Joan Carolyn Jones f/k/a Joan C. Jones f/k/a Joany Jones, Leonard Leeson, Harvey D. Jones, Jr. a/k/a Harvey Danny Jones, Jr. a/k/a Harvey Daniel Jones, and Exchange Bank of Skiatook, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain promissory note and for foreclosure of a mortgage securing said promissory note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot 4, Block 2, SOUTH PARK ADDITION, to the City of Skiatook, according to the recorded plat thereof.

The Court further finds that on June 13, 1975, Harvey D. Jones, Jr. and Joan C. Jones executed and delivered to the United States of America, acting through the Farmers Home Administration, their promissory note in the amount of \$19,630.00, payable in monthly installments, with interest thereon at the rate of 8-1/8 percent per annum.

The Court further finds that as security for the payment of the above-described note, Harvey D. Jones, Jr. and Joan C. Jones executed and delivered to the United States of America, acting through the Farmers Home Administration, a mortgage dated June 13, 1975, covering the above-described property. Said mortgage was recorded on June 16, 1975, in Book 4169, Page 983, in the records of Tulsa County, Oklahoma.

The Court further finds that on August 29, 1989, the United States of America, acting through the Farmers Home Administration, released Harvey D. Jones Jr. from personal liability to the Government for the indebtedness and obligation of the above-described note and mortgage.

The Court further finds that Defendant, Joan Carolyn Leeson f/k/a Joan Carolyn Jones f/k/a Joan C. Jones f/k/a Joany

Jones, made default under the terms of the aforesaid note and mortgage by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Joan Carolyn Leeson f/k/a Joan Carolyn Jones f/k/a Joan C. Jones f/k/a Joany Jones, is indebted to the Plaintiff in the principal sum of \$17,618.45, plus accrued interest in the amount of \$2,526.33 as of November 1, 1990, plus interest accruing thereafter at the rate of 8.125 percent per annum or \$3.9219 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$35.00 (\$20.00 docket fees, \$15.00 fees for service of Summons and Complaint).

The Court further finds that the Defendants, Leonard Leeson, Harvey D. Jones, Jr. a/k/a Harvey Danny Jones, Jr. a/k/a Harvey Daniel Jones, and Exchange Bank of Skiatook, are in default and therefore have no right, title or interest in the subject real property.

The Court further finds that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, has liens on the property which is the subject matter of this action in the total amount of \$2,361.56, plus penalties and interest, by virtue of Warrant No. STS8600243000, dated September 9, 1986, filed September 30, 1986, in Book 4973, Page 155 in the records of Tulsa County, Oklahoma, in the amount of \$218.09; by virtue of Warrant No. STS8700221700, dated July 13, 1987, filed July 20, 1987, in Book 5040, Page 25 in the records of Tulsa County, Oklahoma, in the amount of \$367.50; by virtue of Warrant No.

STS8700221800, dated July 13, 1987, filed July 20, 1987, in Book 5040, Page 498 in the records of Tulsa County, Oklahoma, in the amount of \$1,470.00; and by virtue of Warrant No. STS9000051001, dated April 4, 1990, filed April 10, 1990, in the records of Tulsa County, Oklahoma, in the amount of \$305.97. Said liens are inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Joan Carolyn Leeson f/k/a Joan Carolyn Jones f/k/a Joan C. Jones f/k/a Joany Jones, in the principal sum of \$17,618.45, plus accrued interest in the amount of \$2,526.33 as of November 1, 1990, plus interest accruing thereafter at the rate of 8.125 percent per annum or \$3.9219 per day until judgment, plus interest thereafter at the current legal rate of 4.40 percent per annum until paid, plus the costs of this action in the amount of \$35.00 (\$20.00 docket fees, \$15.00 fees for service of Summons and Complaint), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission,



have and recover judgment in the total amount of \$2,361.56, plus penalties and interest, by virtue of Warrant No. STS8600243000, dated September 9, 1986, filed September 30, 1986, in Book 4973, Page 155 in the records of Tulsa County, Oklahoma, in the amount of \$218.09; by virtue of Warrant No. STS8700221700, dated July 13, 1987, filed July 20, 1987, in Book 5040, Page 25 in the records of Tulsa County, Oklahoma, in the amount of \$367.50; by virtue of Warrant No. STS8700221800, dated July 13, 1987, filed July 20, 1987, in Book 5040, Page 498 in the records of Tulsa County, Oklahoma, in the amount of \$1,470.00; and by virtue of Warrant No. STS9000051001, dated April 4, 1990, filed April 10, 1990, in the records of Tulsa County, Oklahoma, in the amount of \$305.97.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Leonard Leeson, Harvey D. Jones, Jr. a/k/a Harvey Danny Jones, Jr. a/k/a Harvey Daniel Jones, Exchange Bank of Skiatook, and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Joan Carolyn Leeson f/k/a Joan Carolyn Jones f/k/a Joan C. Jones f/k/a Joany Jones, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisal the real property involved herein and apply the proceeds of the sale as follows:

**First:**

In payment of the costs of this action  
accrued and accruing incurred by the  
Plaintiff, including the costs of sale of  
said real property;

**Second:**

In payment of the judgment rendered herein  
in favor of the Plaintiff;

**Third:**

In payment of the judgment rendered herein  
in favor of the Defendant, State of Oklahoma  
ex rel. Oklahoma Tax Commission.

The surplus from said sale, if any, shall be deposited with the  
Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from  
and after the sale of the above-described real property, under  
and by virtue of this judgment and decree, all of the Defendants  
and all persons claiming under them since the filing of the  
Complaint, be and they are forever barred and foreclosed of any  
right, title, interest or claim in or to the subject real  
property or any part thereof.

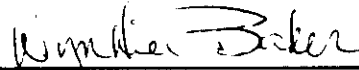
S/ THOMAS R. BRETT


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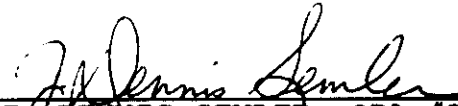
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
WYN DEE BAKER, OBA #465  
Assistant United States Attorney  
3600 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

  
LISA HAWS, OBA #12695  
Assistant General Counsel  
P.O. Box 53248  
Oklahoma City, OK 73152-3248  
(405) 521-3141  
Attorney for Defendant,  
State of Oklahoma ex rel.  
Oklahoma Tax Commission

  
J. DENNIS SEMLER, OBA #8076  
Assistant District Attorney  
406 Tulsa County Courthouse  
Tulsa, Oklahoma 74103  
(918) 596-4841  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

Judgment of Foreclosure  
Civil Action No. 91-C-776-B

WDB/css

DAW:CARRMA-21  
5/4/92:da

ENTERED ON DOCKET

DATE 5-6-92 *dl*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

**MAY 5 1992**

**Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA**

MARY JANETTE CARR, and JOSEPH E.  
CARR and IRMA L. CARR, Guardians  
Ad Litem for BRANDEN CARR and  
STACY CARR, Minors,

Plaintiffs,

vs.

AETNA LIFE INSURANCE COMPANY,  
a Delaware Corporation,

Defendant.

Case No. 91-C-846-E

**ORDER**

On this 29th day of April, 1992, the Honorable James O. Ellison, Judge of the United States District Court for the Northern District of Oklahoma, presides over a Status Conference in this case. Larry G. Taylor, Esq., appears for and on behalf of Joseph E. Carr and Irma L. Carr, Guardians Ad Litem for Branden James Carr and Staci Len Carr, Minors, and Douglas A. Wilson, Esq., appears for and on behalf of Mary Janette Carr. By Joint Stipulation of Dismissal and Discharge, the Defendant Aetna Life Insurance Company was dismissed from this case on April 20, 1992.

This Court finds that the Cross-Claim by Joseph E. Carr and Irma L. Carr, Guardians Ad Litem for Branden James Carr and Staci Len Carr, Minors, against Mary Janette Carr, has been rendered

moot by reason of this Court's Order Approving Settlement. Accordingly, the Cross-claim should be and hereby is dismissed.

Upon oral application of the Plaintiff Mary Janette Carr to disregard her Motion for Reconsideration in light of this Court's Order Approving Settlement, this Court finds that Plaintiff's application should be granted and that Plaintiff's Motion for Reconsideration is thereby rendered moot.

This Court further finds that the Interrogatories served by mail upon Mary Janette Carr on April 9, 1992, are moot and Plaintiff Mary Janette Carr is under no obligation to answer same.

This Court further finds that the law firm of Feldman, Hall, Franden, Woodard & Farris and the law firm of Chapel, Riggs, Abney, Neal & Turpen, shall submit to this Court their respective applications for attorneys fees on or before the 25th day of May, 1992, and that any objections to the applications so filed must be filed with this Court on or before the 5th day of June, 1992.

Finally, this Court finds that a hearing on attorneys fees should be scheduled at this Court's earliest convenience following June 5, 1992.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Cross-Claim by Joseph E. Carr and Irma L. Carr, Guardians Ad Litem for Branden James Carr and Staci Len Carr, Minors, against Mary Janette Carr, is hereby dismissed.

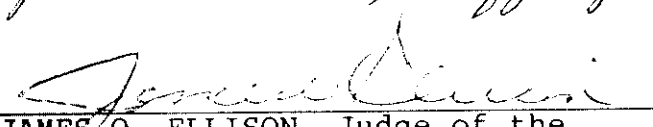
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff Mary Janette Carr's application to disregard her Motion for Reconsideration in light of this Court's Order Approving Settle-

ment is hereby granted and that Plaintiff's Motion for Reconsideration is thereby rendered moot.


IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Interrogatories served by mail upon Mary Janette Carr on April 9, 1992, have been rendered moot and Plaintiff Mary Janette Carr is under no obligation to answer same;

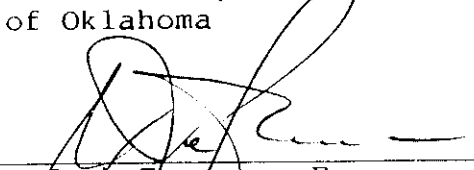
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the law firm of Feldman, Hall, Franden, Woodard & Farris and the law firm of Chapel, Riggs, Abney, Neal & Turpen submit to this Court their respective applications for attorneys fees on or before the 25th day of May, 1992, and that any objections thereto be filed with this Court on or before the 5th day of June, 1992.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a hearing on attorneys fees is set for the 1<sup>st</sup> day of July, 1992, 1.30 pm. in Room # 1 of the Federal Building, 333 West Fourth Street, Tulsa, Oklahoma, 74103, before James O. Ellison, Chief Judge

  
JAMES O. ELLISON, Judge of the  
U. S. District Court, Northern  
District of Oklahoma

APPROVED:

  
Douglas A. Wilson, Esq.  
Chapel, Riggs, Abney, Neal  
& Turpen  
502 West Sixth Street  
Tulsa, OK 74119-1010  
ATTORNEYS FOR PLAINTIFF  
MARY JANETTE CARR

  
R. Jack Freeman, Esq.  
Feldman, Hall, Franden,  
Woodard & Farris  
525 South Main, Suite 1400  
Tulsa, OK 74103-4409  
ATTORNEYS FOR PLAINTIFFS  
JOSEPH E. and IRMA L. CARR

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

MAY 5 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

MATRIX GAS MARKETING, INC. )

Plaintiff, )

vs. )

No. 91-C-339-B

LIGHTHOUSE GAS MARKETING )

CO., KELT RESOURCES )

(HOLDINGS) INC., KELT OIL )

& GAS, INC., and KELT )

ENERGY PLC, )


Defendants. )

**JOINT STIPULATION OF DISMISSAL WITH PREJUDICE**

Plaintiff Matrix Gas Marketing, Inc. and the above named Defendants, pursuant to Fed.R.Civ.P. 41(a)(1), stipulate to the dismissal of the above-captioned action with prejudice, each party to bear its own costs and attorneys' fees.

CONNER & WINTERS

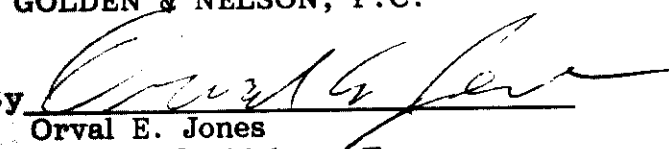
By

  
J. David Jorgenson  
2400 First National Tower  
Tulsa, Oklahoma 74103  
(918)586-5711

Attorneys for Plaintiff

HALL, ESTILL, HARDWICK, GABLE,  
GOLDEN & NELSON, P.C.

By

  
Orval E. Jones  
4100 Bank of Oklahoma Tower  
Tulsa, Oklahoma 74172

Attorneys for Defendants

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DORIS D. BLOCK; COUNTY  
TREASURER, Tulsa County,  
Oklahoma; and BOARD OF COUNTY  
COMMISSIONERS, Tulsa County,  
Oklahoma,

Defendants.

**FILED**

MAY 04 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

MAY 05 1992

CIVIL ACTION NO. 91-C-105-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4th day  
of May, 1992. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Peter Bernhardt, Assistant United States  
Attorney; the Defendant, Doris D. Block, appears by her attorney,  
Steven W. Vincent; the Defendants, County Treasurer, Tulsa  
County, Oklahoma, and Board of County Commissioners, Tulsa  
County, Oklahoma, appear not, having previously filed their  
Answers disclaiming any right, title or interest in the subject  
property.

The Court, being fully advised and having examined the  
court file, finds that the Defendant, Doris D. Block, by her  
attorney, acknowledged receipt of Summons and Complaint on  
February 28, 1991; that Defendant, County Treasurer, Tulsa  
County, Oklahoma, acknowledged receipt of Summons and Complaint  
on February 21, 1991; and that Defendant, Board of County  
Commissioners, Tulsa County, Oklahoma, acknowledged receipt of  
Summons and Complaint on February 21, 1991.

NOTE: THE ORDER IS TO BE MAILED  
TO THE CLERK OF COURT AND  
PRO SE LITIGANTS IMMEDIATELY  
UPON RECEIPT.



It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on March 11, 1991, disclaiming any right, title or interest in the subject property; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on March 11, 1991, disclaiming any right, title or interest in the subject property; and that the Defendant, Doris D. Block, filed her Answer on March 12, 1991.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Nine (9), Block Three (3), TEEL TERRACE,  
an Addition to the City of Tulsa, County of  
Tulsa, State of Oklahoma, According to the  
recorded Plat thereof.

The Court further finds that on March 16, 1987, the Defendant, Doris D. Block, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, her mortgage note in the amount of \$19,000.00, payable in monthly installments, with interest thereon at the rate of 9 percent (9%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Doris D. Block, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated

March 16, 1987, covering the above-described property. Said mortgage was recorded on March 17, 1987, in Book 5008, Page 976, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Doris D. Block, made default under the terms of the aforesaid note and mortgage, by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Doris D. Block, is indebted to the Plaintiff in the principal sum of \$18,586.32, plus interest at the rate of 9 percent per annum from April 1, 1990 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Doris D. Block, in the principal sum of \$18,586.32, plus interest at the rate of 9 percent per annum from April 1, 1990 until judgment, plus interest thereafter at the current legal rate of 4.40 percent per annum until paid, plus the costs of this action, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Doris D. Block, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without appraisalment, the real property involved herein and apply the proceeds of the sale as follows:

**First:**

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

**Second:**

In payment of the judgment rendered herein in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any


right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
PETER BERNHARDT, OBA #741  
Assistant United States Attorney  
3900 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

  
STEVEN W. VINCENT, OBA #9137  
Attorney for Doris D. Block

Judgment of Foreclosure  
Civil Action No. 91-C-105-B

PB/esr

DATE

5-5-92

FILED

APR -1 1992

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OK

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

CAVIN, RICHARD EUGENE

Plaintiff,

v.

Georgia Talc, et al, )

Defendants. )

Case No. 89-C-983-C

ADMINISTRATIVE CLOSING ORDER

The defendants, H. K. Porter Co., Inc., Eagle-Picher Industries, Inc., Celotex Corporation, and Raymark Industries, Inc. having filed their petitions in bankruptcy and these proceedings being stayed thereby, and settlement or dismissal having been attained as to the remaining defendants, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

IF, within 30 days of a final adjudication of the bankruptcy proceedings, the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 31 day of March, 1992.

*[Signature]*  
United States District Judge

DATE 5-5-92 *pm*IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**FILED**

MAY 04 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

MARTY BATES,

Plaintiff,

v.

MARK CHAMBERLAIN, et al,

Defendants.

90-C-1011-B ✓

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed April 1, 1992 in which the Magistrate Judge recommended that this case be dismissed without prejudice.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that this case is dismissed without prejudice.

Dated this 2<sup>nd</sup> day of March, 1992.

*Thomas R. Brett*  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET  
DATE 5-5-92 *mw*

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

*mw*  
MAY 04 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

JOHN L. ALEXANDER,

Plaintiff,

v.

NEAL MERRIOTT, et al.,

Defendants.

90-C-1018-B

**ORDER**

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed April 1, 1992 in which the Magistrate Judge recommended that this case be dismissed without prejudice.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that this case is dismissed without prejudice.

Dated this 4 day of May, 1992.

*Thomas R. Brett*  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MAY 4 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

LONNIE RAE LINDLEY,  
Plaintiff,

vs.

DENNY'S RESTAURANTS, INC.,  
Defendant.

No. 92 C 295 E

ENTERED ON DOCKET  
DATE 5-5-92

ORDER

Now on this 1st day of May, 1992, pursuant to 28 U.S.C. § 1441, et seq., this matter comes before the Court upon the Application of the Defendant, Denny's Restaurants, Inc., for remand of this action to the District Court in and for Tulsa County, State of Oklahoma, No. CJ 92-01210, and having been fully advised in the premises and for good cause shown,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this case be remanded to the District Court in and for Tulsa County, State of Oklahoma, No. CJ 92-1210.

  
JUDGE OF THE DISTRICT COURT



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

JOHN T. JENNINGS a/k/a JOHN  
THEODORE JENNINGS; TAMBERLAIN K.  
JENNINGS a/k/a TAMBERLAIN KAY  
JENNINGS; COUNTY TREASURER,  
Washington County, Oklahoma; and  
BOARD OF COUNTY COMMISSIONERS,  
Washington County, Oklahoma,

Defendants.

CIVIL ACTION NO. 92-C-54-B

FILED

1992  
Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

CLERK OF COURT

DATE 5-5-92 *pr*

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4 day  
of May, 1992. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Wyn Dee Baker, Assistant United States  
Attorney; the Defendants, John T. Jennings a/k/a John Theodore  
Jennings, Tamberlain K. Jennings a/k/a Tamberlain Kay Jennings,  
County Treasurer, Washington County, Oklahoma, and Board of  
County Commissioners, Washington County, Oklahoma, appear not,  
but make default.

The Court being fully advised and having examined the  
court file finds that the Defendants, John T. Jennings a/k/a John  
Theodore Jennings and Tamberlain K. Jennings a/k/a Tamberlain Kay  
Jennings, were served with Summons and Complaint on March 5,  
1992; that Defendant, County Treasurer, Washington County,  
Oklahoma, acknowledged receipt of Summons and Complaint on  
January 27, 1992; and that Defendant, Board of County

NOTE: THIS COPY IS TO BE MAILED  
BY CLERK OF COURT AND COUNSEL AND  
PRO SE LITIGANTS IMMEDIATELY  
UPON RECEIPT.

Commissioners, Washington County, Oklahoma, acknowledged receipt of Summons and Complaint on January 27, 1992.

It appears that the Defendants, John T. Jennings a/k/a John Theodore Jennings, Tamberlain K. Jennings a/k/a Tamberlain Kay Jennings, County Treasurer, Washington County, Oklahoma, and Board of County Commissioners, Washington County, Oklahoma, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on June 5, 1990, John Theodore Jennings and Tamberlain Kay Jennings filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 90-01524-W. On September 25, 1990, the United States Bankruptcy Court for the Northern District of Oklahoma entered a Discharge of Debtor releasing the debtors from all dischargeable debts. On November 19, 1990, this bankruptcy case was closed.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Washington County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twenty-Three (23), Eastman 2nd Addition to the City of Ochelata, Washington County, Oklahoma, "subject, however, to all valid outstanding easements, rights-of-ways, mineral leases, mineral reservations, and mineral conveyances of record".

The Court further finds that on April 14, 1989, John T. Jennings and Tamberlain K. Jennings executed and delivered to the

United States of America, acting through the Farmers Home Administration, their promissory note in the amount of \$28,500.00, payable in monthly installments, with interest thereon at the rate of 9.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, John T. Jennings and Tamberlain K. Jennings executed and delivered to the United States of America, acting through the Farmers Home Administration, a mortgage dated April 14, 1989, covering the above-described property. Said mortgage was recorded on April 14, 1989, in Book 852, Page 1506, in the records of Washington County, Oklahoma.

The Court further finds that on April 14, 1989, John T. Jennings and Tamberlain K. Jennings executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement pursuant to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that the Defendants, John T. Jennings a/k/a John Theodore Jennings and Tamberlain K. Jennings a/k/a Tamberlain Kay Jennings, made default under the terms of the aforesaid note, mortgage, and interest credit agreement by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, John T. Jennings a/k/a John Theodore Jennings and Tamberlain K. Jennings a/k/a Tamberlain Kay Jennings, are indebted to the Plaintiff in the principal sum of \$28,854.32,

plus accrued interest in the amount of \$3,198.80 as of February 5, 1991, plus interest accruing thereafter at the rate of 9.5 percent per annum or \$7.5100 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the further sum due and owing under the interest credit agreement of \$1,332.00, plus interest on that sum at the legal rate from judgment until paid, and the costs of this action in the amount of \$55.60 (\$20.00 docket fees, \$27.60 fees for service of Summons and Complaint, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Washington County, Oklahoma, are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendants, John T. Jennings a/k/a John Theodore Jennings and Tamberlain K. Jennings a/k/a Tamberlain Kay Jennings, in the principal sum of \$28,854.32, plus accrued interest in the amount of \$3,198.80 as of February 5, 1991, plus interest accruing thereafter at the rate of 9.5 percent per annum or \$7.5100 per day until judgment, plus interest thereafter at the current legal rate of 4.40 percent per annum until fully paid, and the further sum due and owing under the interest credit agreement of \$1,332.00, plus interest on that sum at the current legal rate of 4.40 percent per annum from judgment until paid, plus the costs of this action in the amount of \$55.60 (\$20.00 docket fees, \$27.60 fees for service of Summons and Complaint, \$8.00 fee for

recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Washington County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, John T. Jennings a/k/a John Theodore Jennings and Tamberlain K. Jennings a/k/a Tamberlain Kay Jennings, to satisfy the in rem judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisement the real property involved herein and apply the proceeds of the sale as follows:

**First:**

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

**Second:**

In payment of the judgment rendered herein in favor of the Plaintiff

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

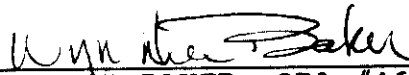
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

ST THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
WYN DEE BAKER, OBA #465  
Assistant United States Attorney  
3600 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

Judgment of Foreclosure  
Civil Action No. 92-C-54-B

WDB/css

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

DATE MAY 4 1992

**FILED**

MAY -1 1992

Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT

LARRY HALL, individually and  
as father and next friend of  
Angela Lynn Hall, Michael  
Hall and Shawna Hall, minors,

Plaintiffs,

v.

Case No. 91-C-279-C

CABOT CORPORATION,

Defendant.

ORDER OF DISMISSAL WITH PREJUDICE

COMES NOW on this 28<sup>th</sup> day of April, 1992, upon  
consideration of the Joint Application for Dismissal With  
Prejudice. The Court having reviewed the records on file in this  
case and being advised that all of the plaintiffs' claims have been  
fully compromised and settled, finds that the Joint Application for  
Dismissal With Prejudice should be granted.

IT IS THEREFORE ORDERED that all claims of the plaintiffs are  
dismissed with prejudice against defendant, Cabot Corporation.

IT IS SO ORDERED this 28<sup>th</sup> day of April, 1992.

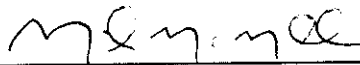
Richard M. Lawrence  
UNITED STATES DISTRICT JUDGE

APPROVED:

Don L. Dees, Inc.  
Don L. Dees, Inc.  
Attorney at Law  
23 West 4th Street - Suite 700  
Tulsa, OK 74103

and

Bransford Shoemake  
Shoemake & Shoemake  
Attorney at Law  
P.O. Box 177  
Pawhuska, OK 74056  
ATTORNEYS FOR PLAINTIFFS

  
STEPHEN PETERSON (OBA 7085) and  
MICHAEL S. McMILLIN (OBA 12404) of  
FENTON, FENTON, SMITH, RENEAU &  
MOON  
One Leadership Square, Suite 800  
211 North Robinson  
Oklahoma City, Oklahoma 73102  
ATTORNEYS FOR DEFENDANT



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

DATE 5-4-92 *DN*

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

EARNIE M. ALEXANDER a/k/a  
EARNIE MAE ALEXANDER a/k/a  
ERNIE MAE ALEXANDER; ERNIE  
MARLO ALEXANDER a/k/a MARLO E.  
ALEXANDER; STATE OF OKLAHOMA  
ex rel. OKLAHOMA TAX  
COMMISSION; COUNTY TREASURER,  
Tulsa County, Oklahoma; and  
BOARD OF COUNTY COMMISSIONERS,  
Tulsa County, Oklahoma,

Defendants.

CIVIL ACTION NO. 91-C-342-E

**FILED**

MAY 1 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

**ORDER**

Upon the Motion of the United States of America acting on behalf of the Secretary of Veterans Affairs by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, to which there are no objections, it is hereby ORDERED that this action shall be dismissed without prejudice.

Dated this 12<sup>th</sup> day of May, 1992.

*James C. Ellison*  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM

United States Attorney

PETER BERNHARDT, OSA #741

Assistant United States Attorney

3600 United States Courthouse

Tulsa, OK 74103

(918) 581-7463

PB/esr

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

MAY 1 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
DON I. NELSON, et al.,  
Defendants.

No. 89-C-775-E

ENTERED ON DOCKET

DATE 5-4-92

ORDER


A N D

J U D G M E N T

Before the Court is Plaintiff's Motion for Summary Judgment against Defendants Frontier Energy Exploration, Frontier Energy Exploration 1981 Drilling Program and G. Steven Bock (Frontier Defendants). The Court has considered the arguments and evidence submitted by the parties in light of Celotex Corp. v. Catrett, 106 S.Ct. 2548 (1986) and its progeny. The Court finds that the motion should be granted. Under the terms of the oil and gas lease covering the property at issue herein, lessee was obligated to deliver one-fourth of the oil produced and saved to the credit of lessor. See, Exh. No. 5, docket #86: Exhibits in Support of Plaintiff's Motion. Lessee, Frontier Energy Exploration 1981 Drilling Program, and its General Partner, Frontier Energy Exploration, and its General Partner, G. Steven Bock are liable for breach of that obligation.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Summary Judgment against the Frontier Defendants is granted.

So ORDERED this 30<sup>th</sup> day of April, 1992.

  
JAMES O. ELLISON, Chief Judge  
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

5-4-92-81

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LLOYD W. HENSON; SUSAN K.  
HENSON; COUNTY TREASURER,  
Tulsa County, Oklahoma; and  
BOARD OF COUNTY COMMISSIONERS,  
Tulsa County, Oklahoma,

Defendants.

**FILED**

MAY 1 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 92-C-176-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 1<sup>st</sup> day  
of May, 1992. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Peter Bernhardt, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear not, having previously filed their Answers  
disclaiming any right, title, or interest in the subject  
property; and the Defendants, Lloyd W. Henson and Susan K.  
Henson, appear not, but make default.

The Court, being fully advised and having examined the  
court file, finds that the Defendant, Lloyd W. Henson,  
acknowledged receipt of Summons and Complaint on March 17, 1992;  
that the Defendant, Susan K. Henson, acknowledged receipt of  
Summons and Complaint on March 17, 1992; that Defendant, County  
Treasurer, Tulsa County, Oklahoma, acknowledged receipt of  
Summons and Complaint on March 5, 1992; and that Defendant, Board

of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on March 3, 1992.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on March 23, 1992; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on March 23, 1992; and that the Defendants, Lloyd W. Henson and Susan K. Henson, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Two (2), Block Five (5), GLENPOOL PARK,  
an Addition in the Town of Glenpool, Tulsa  
County, State of Oklahoma, according to the  
Recorded Amended Plat thereof.

The Court further finds that on March 22, 1977, the Defendants, Lloyd W. Henson and Susan K. Henson, executed and delivered to the United States of America, acting through the Farmers Home Administration, their mortgage note in the amount of \$23,500.00, payable in monthly installments, with interest thereon at the rate of 8 percent (8%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Lloyd W. Henson and Susan K. Henson, executed and delivered to the United States of America, acting through the Farmers Home

Administration, a mortgage dated March 22, 1977, covering the above-described property. Said mortgage was recorded on March 22, 1977, in Book 4255, Page 2452, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Lloyd W. Henson and Susan K. Henson, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Lloyd W. Henson and Susan K. Henson, are indebted to the Plaintiff in the principal sum of \$19,935.65, plus accrued interest in the amount of \$744.01 as of August 9, 1991, plus interest accruing thereafter at the rate of 8 percent per annum or \$4.3695 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendants, Lloyd W. Henson and Susan K. Henson, are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Lloyd W. Henson and Susan K. Henson, in the principal sum of \$19,935.65, plus accrued interest in the amount of \$744.01 as of August 9, 1991, plus interest accruing thereafter at the rate of

8 percent per annum or \$4.3695 per day until judgment, plus interest thereafter at the current legal rate of 4.40 percent per annum until paid, plus the costs of this action plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Lloyd W. Henson and Susan K. Henson, claim no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without appraisal, the real property involved herein and apply the proceeds of the sale as follows:

**First:**

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

**Second:**

In payment of the judgment rendered herein  
in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the  
Clerk of the Court to await further Order of the Court.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that from  
and after the sale of the above-described real property, under  
and by virtue of this judgment and decree, all of the Defendants  
and all persons claiming under them since the filing of the  
Complaint, be and they are forever barred and foreclosed of any  
right, title, interest or claim in or to the subject real  
property or any part thereof.

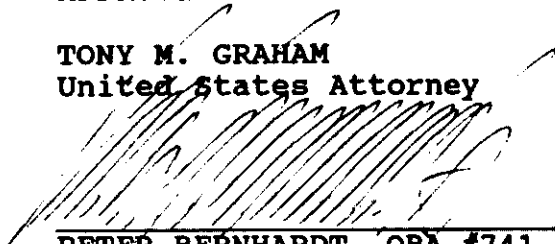
BY JAMES O. HILSON

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UNITED STATES DISTRICT JUDGE

**APPROVED:**

**TONY M. GRAHAM**  
United States Attorney



---

**PETER BERNHARDT, OBA #741**  
Assistant United States Attorney  
3900 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

Judgment of Foreclosure  
Civil Action No. 92-C-176-E

PB/esr



ENTERED ON DOCKET  
DATE MAY 4 1992

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

~~FILED~~

APR 27 1992

Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT

LARRY HALL, individually and )  
as father and next friend of )  
Angela Lynn Hall, Michael )  
Hall and Shawna Hall, minors, )

Plaintiffs, )

v. )

Case No. 91-C-279

~~FILED~~

CABOT CORPORATION, )

MAY -1 1992

Defendant. )

Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT

ORDER APPROVING SETTLEMENT

COMES NOW on this 28 day of April, 1992, comes on for hearing the Joint Application for Order Approving Settlement, and the Court being advised in the premises, makes the following findings:

1. This action arises as a result of personal injuries suffered by the plaintiff, Larry Hall, on or around March 22, 1990.
2. The parties have agreed to a compromise settlement of all of the plaintiffs' claims against the defendant and the parties have agreed that the terms of the settlement agreement are to remain confidential.
3. The terms of the settlement agreement have been disclosed to the Court and the Court finds that the settlement agreement is fair and reasonable and in the best interest of the minor plaintiffs.

IT IS THEREFORE ORDERED AS FOLLOWS:

4. That the settlement agreement made by and between the plaintiffs and defendant is approved and that the amount paid in settlement is to remain confidential and is not to be disclosed to

any person or entity by plaintiffs, plaintiffs' attorneys or representatives, except as may be actually required to complete this agreement.

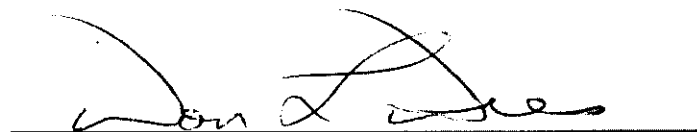
5. That plaintiff, Larry Hall is authorized to execute a release and settlement of claim on behalf of his minor children, Angela Lynn Hall, Michael Hall and Shawna Hall, releasing all potential claims of said minor children which arise or may arise by reason of the subject March 22, 1990 accident.

6. That by approving the settlement agreement reached by the parties, the Court does not make any findings of liability in favor of or against the plaintiffs or the defendant, and the entry of this order shall not be construed as an admission of liability by defendant, Cabot Corporation to the plaintiffs.

IT IS SO ORDERED this 28<sup>th</sup> day of April, 1992.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
Don L. Dees, Inc.  
Attorney at Law  
23 West 4th Street - Suite 700  
Tulsa, OK 74103

and

Bransford Shoemake  
Shoemake & Shoemake  
Attorney at Law  
P.O. Box 177  
Pawhuska, OK 74056  
ATTORNEYS FOR PLAINTIFFS

*M. E. McMillin*

STEPHEN PETERSON (OBA 7085) and  
MICHAEL S. McMILLIN (OBA 12404) of  
FENTON, FENTON, SMITH, RENEAU &  
MOON

One Leadership Square, Suite 800  
211 North Robinson  
Oklahoma City, Oklahoma 73102  
ATTORNEYS FOR DEFENDANT

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

MAY 1 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CIVIL ACTION NO. 89-C-722-E

ONE PARCEL OF REAL PROPERTY,  
WITH BUILDINGS, APPURTENANCES,  
IMPROVEMENTS, AND CONTENTS,  
KNOWN AS 5632 EAST 76TH STREET,  
TULSA, OKLAHOMA 74136;

and

\$43,000.00 CERTIFICATE OF  
DEPOSIT NO. 18565 ISSUED  
BY COMMUNITY BANK AND  
TRUST COMPANY, TULSA,  
OKLAHOMA, REPRESENTING  
PROCEEDS FROM SALE OF ONE  
1989 MERCEDES BENZ 300 CE,  
VIN WDBEA50DIK819873;

and

\$25,000.00 CASH SURRENDER  
VALUE OF SINGLE PREMIUM  
ANNUITY POLICY ISSUED  
JANUARY 17, 1989, TO  
ROBERT L. JOHNSON BY  
UNITED COMPANIES LIFE  
INSURANCE COMPANY,  
BATON ROUGE, LOUISIANA,

Defendants.

ENTERED ON DOCKET

DATE 5-4-92 H

JUDGMENT OF FORFEITURE

This cause having come before this Court upon  
Stipulation for Forfeiture and Settlement of Claims entered into  
by and between the Plaintiff, United States of America, and  
Claimant Mary Johnson, a/k/a Mary Margaret Johnson and Mary  
Cooper, and Claimant Leonard Otten, and the Court, being fully  
apprised in the premises, finds as follows:

That the verified Complaint for Forfeiture In Rem was filed in this action on the 5th day of September 1989; the Complaint alleges that the defendant real property, with buildings, appurtenances, improvements, and contents known as 5632 East 76th Street, Tulsa, Oklahoma 74136; the defendant \$43,000 Certificate of Deposit representing proceeds of the sale of the Mercedes Benz; and the defendant \$25,000 cash surrender value of the annuity policy are subject to forfeiture pursuant to Title 18 U.S.C. § 981 because they are properties involved in a transaction(s), or attempted transaction(s), in violation of 31 U.S.C. § 5313(a), and 18 U.S.C. §§ 1956 and 1957, or are properties traceable to such property.

That a Warrant of Arrest and Notice In Rem was issued on the 14th day of September, 1989, by the Clerk of the District Court for the Northern District of Oklahoma as to the defendant real property, buildings, appurtenances, improvements and contents and as to the defendant \$43,000 certificate of deposit and the defendant cash surrender value of annuity policy, pursuant to Order for Warrant of Arrest and Notice In Rem issued by United States District Judge James O. Ellison and filed September 12, 1989, that Warrant of Arrest and Notice In Rem issue.

That the United States Marshals Service served a copy of the Complaint for Forfeiture In Rem , the Order, and the Warrant of Arrest and Notice In Rem on the defendant real

property, with buildings, appurtenances, improvements, and contents on January 10, 1990.

That the United States Marshals Service served a copy of the Complaint for Forfeiture In Rem, the Order, and the Warrant of Arrest and Notice In Rem on the defendant \$43,000 certificate of deposit by serving Thomas Dee Frasier on December 13, 1989, but was unable to arrest the certificate of deposit at that time, since it was no longer in the possession of Mr. Frasier. That an Alias Warrant of Arrest and Notice In Rem as to this Certificate of Deposit was issued by the Clerk of this Court on February 5, 1990, and served on February 21, 1990.

That the United States Marshals Service served a copy of the Complaint for Forfeiture In Rem on the defendant \$25,000 annuity policy on December 13, 1989. This asset was received by the United States Marshals Service on April 26, 1989, from the Internal Revenue Service.

That the United States Marshals Service personally served all persons having an interest in this action, as follows:

Robert L. Johnson  
by serving him at  
the Tulsa County Jail,  
Tulsa, Oklahoma

December 14, 1989

Mary Johnson  
a/k/a Mary Margaret  
Johnson and Mary  
Cooper by serving  
Frasier & Frasier,  
her Attorneys  
1700 Southwest Boulevard  
Suite 100  
Tulsa, Oklahoma 74107

December 13, 1989

Frasier and Frasier

December 13, 1989

That USMS Forms 285 reflecting the services set forth above are on file herein.

That on the 13th day of March 1990, Plaintiff filed a Stipulation of Dismissal entered into by and between the Plaintiff and Claimant Mary Johnson, by her attorney of record, Everett R. Bennett, stipulating that all contents of the defendant property known as 5632 East 76th Street, Tulsa, Oklahoma 74136, except those contents specifically set forth in the Stipulation of Dismissal, would be dismissed from this action with prejudice and without costs.

That all persons interested in the defendant real and personal properties hereinafter described were required to file their claims herein within ten (10) days after service upon them of the respective Warrant(s), publication of the Notice of Arrest and Seizure, or actual notice of this action, whichever occurred first, and were required to file their answer(s) to the Complaint within twenty (20) days after filing their respective claim(s).

That the following individuals have filed Claims and Answers to the property on the dates indicated:

Leonard Otten	Claim and Answer filed November 3, 1989. Claim arises out of a Judgment against Robert L. Johnson in the District Court of Tulsa County, Oklahoma.
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Mary Johnson	Claim on the defendant real property filed December 26, 1989.
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Mary Johnson	Claim as to the \$43,000 Certificate of Deposit filed December 28, 1989.
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Mary Margaret Johnson	Claim and Answer filed March 5, 1990.
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That Robert Leslie Johnson did not file a Claim or Answer in this cause of action, but he did file a Disclaimer of Interest herein as to the defendant properties in this action on the 30th day of October, 1991.

That the United States Marshals Service gave public notice of this action and arrests to all persons and entities by advertisement in the Tulsa Daily Business Journal & Legal Record of Tulsa, Oklahoma, on May 3, 10, and 17, 1990, and that Proof of Publication was filed of record on June 19, 1990.

That no other claims, answers, or other defenses have been filed by the defendant properties or any persons or entities having an interest herein.



That the Plaintiff and Claimant Mary Johnson and Claimant Leonard Otten have entered into a Stipulation for Forfeiture and for Settlement of Claims, setting forth the agreement between them, jointly and/or severally, as to the disposition and forfeiture of the defendant real and personal properties in this cause of action.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following-described defendant properties:

**REAL PROPERTY:**

- a) Lot 6, Block 9, MINSHALL PARK III  
ADDITION to the City of Tulsa,  
State of Oklahoma, a/k/a 5632  
East 76th Street, Tulsa,  
Oklahoma.

**CONTENTS:**

- b) Mitsubishi 25" TV, Model  
#CK2560R, S/N - not located.  
(Located in the Master Bedroom).
- c) Oak "canopy bar" which has front  
bar, back bar, and canopy with  
two bar stools. (Located in the  
Family Room).
- d) Oak oval table with two leaves  
and six Custom Wood Products wood  
chairs. (Located in the Formal  
Dining Room).
- e) Wilclif Mfg. Oak China Cabinet  
and Hutch with four leaded glass  
doors and oak buffet with four  
leaded glass doors.

- f) Executive desk, Inspection No. 062488; High Point No. 7235 executive high back chair; executive credenza, Inspection No. 093087; executive two drawer lateral file cabinets, all matching. (Located in the Office - Upstairs.
- g) Kincaid Mfg. master bedroom set, consisting of a king bed, chest of drawers, dresser with mirror, and two nightstands, all of pine wood. (Located in the Master Bedroom).

PROCEEDS:

- h) \$15,672, representing that portion of the \$43,000 CD which is proceeds from the sale of the 1989 Mercedes Benz, which is forfeited, as well as any interest which has accrued on the \$43,000 Certificate of Deposit.
- i) \$25,000 cash surrender value of annuity policy,

and that such properties be, and they hereby are, forfeited to the United States of America for disposition by the United States Marshal according to law, in the order of priority indicated below, and that no right, title, or interest shall exist in any other party.

IT IS FURTHER ORDERED by the Court that the proceeds of the sale of the above-described real property, with buildings, improvements, and appurtenances, and those contents specifically set forth above, located at 5632 East 76th Street, Tulsa, Oklahoma, shall be distributed in the following priority:


a) First, for the payment to the United States of all expenses of forfeiture of the defendant real property and contents, including, but not limited to, expenses of seizure, custody, advertising, and sale.

b) Second, for payment of all real estate taxes owed on the defendant real property up to date of sale, to the extent that the United States of America is responsible for said taxes.

c) Third, for the payment to Claimant Leonard Otten the amount of \$133,896.71, and that if the sale of the defendant real property and contents listed above, does not provide a sufficient amount of net proceeds to pay \$133,896.71 to Leonard Otten, as set forth in the Stipulation for Forfeiture and for Settlement of Claims, filed herein, then the remainder shall be paid from the forfeited proceeds of the Certificate of Deposit and the cash value of the annuity policy to the extent that such proceeds are available.

IT IS FURTHER ORDERED BY THE COURT, pursuant to the Stipulation for Forfeiture and Settlement of Claims entered into by and between the Plaintiff and the Claimants herein, that the sum of \$28,328 of the \$43,000 proceeds received from the sale of the 1989 Mercedes Benz 300 CE, shall be returned to Claimant Mary Johnson.


Entered this 30<sup>th</sup> day of April, 1992.

  
JAMES O. ELLISON, Chief Judge  
of the United States District Court  
for the Northern District of  
Oklahoma

**APPROVED:**

UNITED STATES OF AMERICA

TONY M. GRAHAM  
United States Attorney

  
\_\_\_\_\_  
CATHERINE J. DEF EW  
Assistant United States Attorney

CJD/ch

N: \UDD\CHOOK\FC\JOHNSON\02076

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

MAY 4 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

RITA G. BARKAN, et al.,

Plaintiffs,

vs.

No. 89-C-318-E

ENTERED ON DOCKET

HILTI, INC.,

DATE 5-4-92


Defendant.

**O R D E R**

This case presents that sticky wicket of the law: Statutory Retroactivity. Should the provisions of the 1991 Civil Rights Act be applied retroactively? The Supreme Court has encouraged the lower courts to explore the terrain. Gersman v. Group Health Association, Inc., 112 S.Ct. 960 (1992)(case remanded to D.C. Appellate Court for further consideration in light of the 1991 Civil Rights Act); Holland v. First Virginia Banks, Inc., 112 S.Ct. 1152 (1992)(case remanded to Fourth Circuit for further consideration in light of the 1991 Civil Rights Act). Federal courts in some sixty-nine cases have responded to the Supreme Court's direction thus far. This Court has surveyed that impressive collection of legal deliberation and has found persuasive arguments on both sides of the issue. However, this Court is more persuaded by the position that there is a presumption against retroactivity and that statutes should be applied prospectively, absent clear legislative instructions to the contrary. This approach, it seems to the undersigned, comports with the great weight of precedential law and jurisprudential

thought. In the instant case, finding no Congressional intent that the Civil Rights Act of 1991 be applied retroactively, this Court declines to do so. Further, the Court declines to interpret the teachings of DeVargas so as to turn a sticky wicket into a quagmire. DeVargas v. Mason & Hanger-Sales Mason, Inc., 911 F.2d 1377 (10th Cir. 1990). Accordingly, the Court declines to vacate its September 17, 1991 Order granting partial summary judgment to Defendant, Hilti, Inc. Plaintiffs' Motion for Reinstatement of their Cause of Action under 42 U.S.C. §1981 will be denied.

ORDERED this 4<sup>th</sup> day of MAY, 1992.

  
JAMES O. ELLISON, Chief Judge  
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TRANSPORTATION INFORMATION  
SERVICES, INC., an Oklahoma  
Corporation, d/b/a DAC Services,

Plaintiff,

vs.

MCI TELECOMMUNICATIONS  
CORPORATION, a Delaware  
Corporation,

Defendant.

MCI TELECOMMUNICATIONS  
CORPORATION, a Delaware  
Corporation,

Third-Party Plaintiff,

vs.

PAUL H. HALE,

Third-Party Defendant.

Case No. 90-C-426 E

**FILED**

MAY 1 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW Plaintiff Transportation Information Services, Inc.  
d/b/a DAC Services, pursuant to Fed R. Civ. P. 41(a)(1)(ii), and  
dismisses all claims in its Second Amended Complaint with  
prejudice. All parties who have appeared in this action have  
signed this dismissal.

GABLE & GOTWALS

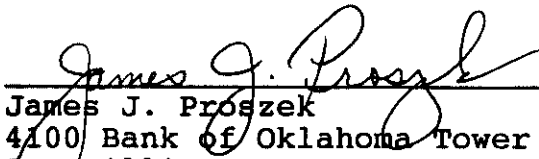
By: Oliver Howard

Oliver Howard  
2000 Fourth National Building  
Tulsa, Oklahoma, 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF  
TRANSPORTATION INFORMATION  
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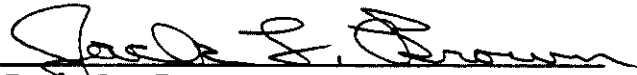
-and-

John A. Fraser  
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ATTORNEYS FOR DEFENDANTS

PATTON, BROWN

By:

  
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ATTORNEYS FOR THIRD PARTY DEFENDANT  
PAUL H. HALE



**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MAY 1 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

JEANINE GOODSON

Plaintiff,

vs.

Case No. 91-C-408-E

DAN TOMAC and WILLIAM R. RILEY  
and MID-CONTINENT POWER COMPANY  
INC., an Oklahoma Corporation,  
all jointly and severally,

Defendants.

RECEIVED

APR 23 1992

P. CREMIN

ORDER DISMISSING DEFENDANTS RILEY AND MID-CONTINENT ONLY

This matter came on before the Court this 29<sup>th</sup> day of  
April, 1992, upon the parties Stipulation of Dismissal  
with Prejudice, and for good cause shown,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that only  
Plaintiff's causes of action against Defendants William R. Riley  
and Mid-Continent Power Company Inc. are hereby dismissed with  
prejudice with each party to bear its costs and attorney fees.

S/ JAMES O. ELLISON

DISTRICT COURT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

MAY 1 1992

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA


IN RE:	)	
	)	
OKLAHOMA PLAZA INVESTORS,	)	
LTD.,	)	Bankruptcy Case No.
	)	BK-89-01236-C
Debtor,	)	(Chapter 11)
	)	
OKLAHOMA PLAZA INVESTORS,	)	Adversary Proceeding No.
LTD.,	)	90-0151-C
	)	
Appellant,	)	District Court No. 90-C-642-E
	)	
WAL-MART STORES, INC.,	)	
	)	
Appellee.	)	

ORDER

Now on this 30<sup>th</sup> day of April 1992, comes on for hearing the above captioned matter and the Court, being fully advised in the premises and after careful consideration of the matters presented to it, finds that the Motion of Wal-Mart Stores, Inc., for Withdrawal of Reference and Brief in Support must be denied.

IT IS THEREFORE ORDERED that the Defendant's Motion for Withdrawal of Reference be denied.

SO ORDERED this 30<sup>th</sup> day of April 1992.

  
CHIEF JUDGE JAMES O. ELLISON  
UNITED STATES DISTRICT COURT